

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

GREGORY C. WHITE,

: Plaintiff-Petitioner,

: vs.

Case No. 3:07cv026

ERНИ MOORE, WARDEN,
LEBANON CORRECTIONAL
INSTITUTION,

JUDGE WALTER HERBERT RICE

: Defendant-Respondent.

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #17) IN THEIR
ENTIRETY; PETITIONER'S OBJECTIONS TO SAID JUDICIAL FILING
(DOC. #18) OVERRULED; JUDGMENT IS NOT TO ENTER UPON THIS
OPINION; PETITIONER'S MOTION TO STAY HABEAS CORPUS
PROCEEDINGS IN ORDER TO EXHAUST STATE COURT REMEDIES
(DOC. #19) SUSTAINED; REQUIREMENTS IMPOSED ON PETITIONER
REFERENCE NOTICE OF STATUS OF APPEAL IN STATE COURT;
CAPTIONED CAUSE ADMINISTRATIVELY PROCESSED, PURSUANT TO
STAY; MATTER REMAINS ON MAGISTRATE JUDGE'S DOCKET

Based upon reasoning and citations of authority set forth in the Report and
Recommendations of the United States Magistrate Judge (Doc. #17), filed July 11,
2008, as well as upon a thorough *de novo* review of this Court's file and the
applicable law, this Court adopts said Report and Recommendations in their
entirety, thus overruling Petitioner's Motion for Summary Judgment (Doc. #13).

The Petitioner's Objections to said judicial filing (Doc. #18) are overruled.

Petitioner's Motion to Stay Habeas Corpus proceedings in order to exhaust state court remedies, with regard to a new claim based upon *State v. Colon*, 118 Ohio St. 3d 26 (2008) (Doc. #19), is sustained.

The Office of the Clerk of Court is directed not to enter judgment on this Court's Opinion adopting the Magistrate Judge's Report and Recommendations. Rather, the captioned cause is to be administratively processed, a status in which it shall remain pending the Defendant's exhaustion of state remedies. Once state remedies are exhausted, and the Petitioner advances a new claim based upon *State v. Colon, supra*, the matter will be referred to the United States Magistrate Judge, once again.

Petitioner is directed to advise this Court, as well as the Magistrate Judge, every 90 days, as to the status of the appeal pending in the Ohio Second District Court of Appeals, or when a decision is rendered by that court, whichever event occurs sooner.

/s/ Walter Herbert Rice

September 25, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Gregory C. White, Pro Se

Hilda Rosenberg, Esq.
Stephanie L. Watson, Esq.

Chief Magistrate Judge Michael R. Merz